

Message Text

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43

ACTION SCI-06

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FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 2637

INFO AEC GERMANTOWN

AMEMBASSY MEXICO

UNCLAS IAEA VIENNA 2550

EO 11652: N/ A

TAGS: TECH, IAEA, MX

SUBJECT: ENRICHED URANIUM FUEL FOR MEXICAN POWER REACTOR

REF: STATE 049422

SUMMARY. REFTEL HAS BEEN DISCUSSED WITH STEIN, IAEA. NUMBER OF QUESTIONS AND COMMENTS BY BOTH STEIN AND MISSION RESULTED. IN ADDITION, MEXICANS HAVE QUERIED STEIN RE EFFECT OF NEW AEC CONTRACTING CRITERIA, CALLING FOR FIRM ORDER EIGHT YEARS IN ADVANCE, ON ABILITY TO OBTAIN MATERIAL WITHIN THREE YEARS. ACTION REQUESTED: GUIDANCE.

1. SECOND ALTERNATIVE MENTIONED PARA 1 REFTEL NOT CLEAR. IF ENTIRE PART OF SENTENCE SEC 54 RE DISTRIBUTION TO IAEA OR ANY GROUP OF NATIONS IS DELETED BEFORE COLON, WOULD FIRST SENTENCE THAT SECTION BE AMENDED TO AUTHORIZE DISTRIBUTION TO IAEA PURSUANT TO AGREEMENT FOR COOPERATION? DELETION OF ONLY PHRASE " OR TO ANY GROUP OF NATIONS" WOULD NOT APPEAR RELEVANT TO IAEA SITUATION. DELETION OF PHRASE " TO THE IAEA, OR TO ANY GROUP OF NATIONS" WOULD APPEAR TO RESULT IN MAKING ALL DISTRIBUTIONS, INCLUDING THOSE REFERRED TO IN FIRST SENTENCE SEC 54, SUBJECT TO SPECIFIC CONGRESSIONAL AUTHORIZATION. MORE DETAILED EXPLANATION SECOND ALTERNATIVE WOULD BE APPRECIATED.

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2. PRESENT LANGUAGE SEC 54 WOULD APPEAR PERMIT " AUTHORIZATION" BY CONGRESS OF ADDITIONAL AMOUNTS AT ANY TIME. CAN SUCH AUTHORIZATION BE GIVEN BY SEPARATE LEGISLATION OTHER THAN AMENDMENT OF ATOMIC ENERGY ACT?

3. ART II A OF AGREEMENT FOR COOPERATION USES SAME WORDING - " WILL MAKE AVAILABLE" - WHEN REFERRING TO BOTH 5000 PLUS KILOS U-235 IN FIRST SENTENCE AND TO ADDITIONAL QUANTITIES AS MAY BE " AUTHORIZED" IN SECOND SENTENCE. 5000 PLUS KILOS WERE SPECIFICALLY AUTHORIZED IN SEC 54 OF ATOMIC ENERGY ACT. UNDER FIRST ALTERNATIVE PARA 1 REFTEL, ADDITIONAL QUANTITY (IN TERMS OF ELECTRICAL CAPACITY SUPPORT) WOULD ALSO BE SPECIFICALLY AUTHORIZED BY AMENDMENT SEC 54. THUS, ON FACE, BOTH 5000 PLUS KILOS AND ADDITIONAL QUANTITY WOULD APPEAR HAVE IDENTICAL STATUS. YET, ACCORDING TO PARAS 3 AND 4 REFTEL, INTENTION IS THAT STATUS IN FACT WOULD BE QUITE DIFFERENT FOR ADDITIONAL QUANTITY. WHILE 5000 PLUS QUANTITY, ACCORDING TO PARA 4, IS REGARDED AS COMMITMENT AND THUS " AVAILABLE TO AGENCY," ADDITIONAL QUANTITY (EVEN THOUGH " AUTHORIZED" BY CONGRESS IN PRESUMABLY IDENTICAL MANNER) WILL BE REGARDED AS COMMITMENT AND " AVAILABLE TO AGENCY" ONLY WHEN SPECIFIC SUPPLY CONTRACTS IN FORCE. STEIN IS CONCERNED THAT APPROACH RE ADDITIONAL QUANTITY WOULD GENERATE UNCERTAINTY RE STATUS OF 5070 KILOS, IN LIGHT OF IDENTICAL LANGUAGE IN ART II A AND IDENTICAL " AUTHORIZATION" TREATMENT. HE ASKED WHETHER LETTER TO AGENCY MENTIONED PARA 4 REFTEL COULD EXPLICITLY RECONFIRM COMMITMENT RE THEN OUTSTANDING BALANCE OF ORIGINAL 5070 KILOS, WHILE OUTLINING NEW SITUATION FOR ADDITIONAL QUANTITY.

4. WOULD LETTER TO AGENCY INCLUDE DESCRIPTION NEW CONTRACT TERMS? WE ASSUME AGENCY SUPPLY CONTRACTS WILL BE SUBJECT TO LEAD- TIME, DOWN- PAYMENT, CANCELLATION CHARGES, ETC REQUIREMENTS IN CONNECTION WITH ADDITIONAL QUANTITY. IN LIGHT OF PARA 3 REFTEL WHICH NOTES THAT EXISTING AGREEMENT OF COOPERATION CONSTITUTES COMMITMENT BY US TO EARMARK 5000 PLUS KILOS FOR SUPPLY " ON REQUEST," WOULD REMAINING OUTSTANDING BALANCE OF ORIGINAL 5070 KILOS BE EXEMPT FROM THOSE NEW CONTRACT TERMS?

5. FOREGOING QUESTION MOST IMPORTANT IN VIEW NECESSITY MEXICO OBTAINING WITHIN ABOUT THREE YEARS, ENRICHED URANIUM FOR FUEL FOR INITIAL LOADING. MEXICANS HAVE ALREADY RAISED QUESTION WITH AGENCY. STEIN UNDERSTANDS ALBA ANDRADE PLANNING POSSIBLE VISIT
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VIENNA DURING APRIL, IN CONNECTION WITH OTHER TRAVEL IN EUROPE,

AND WILL DOUBTLESS RAISE THIS AND OTHER QUESTIONS RE FUEL SUPPLY WITH AGENCY.

6. APART FROM MEXICAN FUEL QUESTIONS, STEIN HAS ASKED WHETHER CONSIDERATION COULD BE GIVEN, IN CONNECTION WITH AMENDMENT OF AGREEMENT FOR COOPERATION MENTIONED PARA 2 REFTL, TO AMENDING LAST SENTENCE ART II A. PRESENT LANGUAGE LIMITS ENRICHMENT TO "70 59 20 PERCENT" U-235, EXCEPT THAT FOR USE IN RESEARCH OR MATERIAL TESTING REACTORS OR FOR RESEARCH. STEIN CORRECTLY POINTS OUT THAT CERTAIN TYPES OF POWER REACTORS, PARTICULARLY HIGH TEMPERATURE GAS- COOLED, REQUIRE ENRICHED URANIUM ABOVE 20 PERCENT U-235. INITIAL FUEL FOR FAST BREEDERS, IN LONGER- TERM, COULD ALSO CALL FOR HIGHLY ENRICHED URANIUM. IN ORDER TO AVOID NECESSITY FOR FURTHER AMENDMENT, IN EVENT SUCH FUEL SOUGHT THROUGH AGENCY, OPPORTUNITY COULD BE TAKEN ON OCCASION AMENDMENT OTHER PROVISIONS, TO AMEND SENTENCE IN QUESTION. PORTER

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